IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5964 OF 2007

Ambika Vidya Prasarak Mandal
through their Trustees .. Petitioner
Versus
Charity Commissioner Maharashtra
State, Mumbai and Anr. .. Respondents

Ms.Gauri Jadhav for petitioner
Ms.V.S.Mhaispurkar, A.G.P. for Respondent No.1
Mr.V.M.Mali for respondent Nos. 2 and 3.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 12th December 2007
P.C.

. Heard learned Counsel for parties. Perused the petition and the annexures thereto. It appears that the learned Charity Commissioner was to a great extent influenced by the fact that the due to high tension line/tower passing through the property, the same cannot be developed, is not a compelling necessity. Further, para 6 of the impugned order is also a

factor influencing the decision of the Joint Charity Commissioner dismissing the application seeking his sanction under section 36(1)(a) of the B.P.T. Act. Despite this impediment in the way of the Trust and the existence of high tension line/tower, the purchaser is present before me on notice and both the Trust and the purchaser state that they are willing to go through the transaction. In such circumstances and when the learned Charity Commissioner has not adverted to the entire material with regard to compelling necessity so also interest of the Trust, it would be just, fair and proper to quash and set aside the impugned order and remit the application preferred by the Trust for fresh consideration of the Charity Commissioner. Accordingly, the impugned order is quashed and set aside. Application under section 36(1)(a) preferred by the petitioner shall be decided afresh in accordance with law. Petition disposed of.

(S.C.Dharmadhikari, J)